



### **What is the Strategic Industrial Development Enhancement (SIDE) Act?**

During the 2022 regular session, the Oklahoma Legislature passed HB3081 creating the **Strategic Industrial Development Enhancement (SIDE) Act** to enhance the competitiveness of rural industrial parks by improving connections between railroads and industrial park developments. This can be done through projects that include qualified economic development expenditures in industrial parks, qualified initial infrastructure expenditures associated with industrial parks, or a combination of the two. Governor Stitt signed HB3081 on May 26, 2022 and its effective date is January 1, 2023.

### **What is the purpose of the SIDE Act?**

The availability of rail served industrial park sites is an important factor in a company's decision to invest their capital in an expansion. The quality and availability of developed sites is a limiting factor for development in some rural areas that otherwise have an availability of land and labor. The SIDE Act authorizes a new corporate income tax credit for qualified expenditures in industrial park and rail infrastructure developments associated with industrial parks. This is anticipated to enhance capacity, efficiency, mobility, and economic activity in rural industrial parks.

### **How does it work?**

A project sponsor must submit a project application to the Oklahoma Department of Commerce on behalf of an eligible entity that has a qualifying project located in a qualifying project location. The Oklahoma Department of Commerce may allocate Strategic Industrial Development Enhancement tax credits to the eligible entity for the completion of the qualifying project.

### **What is a project sponsor?**

A project sponsor may be one of the following:

- An Economic Development Organization or Authority, which must be organized under Section 501(c)(3) of the Internal Revenue Code;
- A port authority;
- A qualified industrial park; or
- A terminal, switching, or Class II or III railroad.

### **What is an eligible entity/Who is eligible to receive the tax credits?**

An incorporated business entity (C-Corp, LLC, S-Corp or non-profit) that is located in Oklahoma with a qualifying project in a qualifying project location. The incorporated business entity must have a physical address with employment in Oklahoma, be registered and in good standing with the Oklahoma Secretary of State, the Oklahoma Tax Commission and the Oklahoma Employment Security Commission.



### **What is a qualifying project location?**

A project located in:

- An industrial park, an economic development zone, or a port located within an Oklahoma county with a population less than 100,000; OR
- Any location adjacent to a terminal, switching, or class II or III railroad as defined by the Federal Surface Transportation Board.

### **What kind of projects are eligible?**

A qualifying project is the new construction or expansion of an eligible entity or the development of qualified initial infrastructure to serve an eligible entity in a qualifying project location.

### **When will the application be available?**

The application will be available no later than July 1, 2023. However, a sample PDF application is posted on the SIDE Act website to allow applicants to review and prepare to apply. *Please note that while the sample application contains the pertinent questions and content needed for submission, the document is NOT final and is subject to minor changes prior to July 1, 2023.*

Updates and additional information will be made available via the website.

### **How are applications submitted?**

Applications will be submitted electronically via a Jotform link on the website. All applications received via any other means (for example: mail, fax, email, etc.) will be rejected.

### **When can applications be submitted?**

We are targeting July 1<sup>st</sup> 2023 for accepting applications.

### **Can a site or project be pre-approved?**

No, a project cannot be pre-approved. Applications will not be accepted or reviewed prior to July 1, 2023.

### **What types of information will be needed to apply?**

The information needed to apply can be found in the sample PDF application posted on the SIDE Act website. *Please note that while the sample application contains the pertinent questions and content needed for submission, the document is NOT final and is subject to minor changes prior to July 1, 2023.*

**Is there an application deadline?**

We will be reviewing applications quarterly and evaluated based on highest net benefit to Oklahoma through December 31, 2027, however, funds are limited.

Application may not be submitted before the January 1<sup>st</sup> or after December 31<sup>st</sup> for the given tax year the project commences. An application will not be approved for a project that has broken ground.

**What is the maximum Tax Credit that can be awarded for a project?**

The total project tax credit amount cannot exceed \$6,000,000 per qualifying project.

- Qualified Economic Development Expenditures: The project tax credit amount may not exceed 10% of qualified expenditures or \$6,000,000.
- Qualified Initial Infrastructure Expenditures: The project tax credit is earned at a rate 50% of qualified expenditures and may not exceed \$3,000,000.

**What is the total tax credit that may be claimed in a tax year?**

The project tax credit amount that may be claimed may not exceed 1/3 of the project tax credit amount beginning in the year that construction is initiated.

- Tax credits may not reduce tax liability to less than zero;
- Any unused tax credits can be carried over to each of the five subsequent taxable years or assigned to a qualifying project affiliate.

**When may Tax credits be claimed?**

Tax credits may be claimed for up to 5 years after the expenditure is incurred.

**What are Qualified Economic Development Expenditures?**

Expenditures for land improvements, building construction, building improvements, and expansion, port terminal improvements, and the purchase of certain machinery and equipment.

**What are Qualified Initial Infrastructure Expenditures?**

Expenditures for new rail infrastructure and improvements, which includes the acquisition of right-of-way, engineering, construction of new track such as industrial leads, switches, spurs, and sidings, loading dock improvements, and transloading structures involved with providing rail service to a qualifying project.